

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN WESLEY WILLIAMS,

Plaintiff,

v.

BEER, et al.,

Defendants.

Case No. 1:21-cv-00155-DAD-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT PLAINTIFF'S
MOTION FOR LEAVE TO AMEND BE
DENIED

(ECF No. 55)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

John Williams ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights action. On April 11, 2022, Plaintiff filed a second motion for leave to amend, along with a proposed amended complaint. (ECF Nos. 54 & 55). For the reasons that follow, the Court will recommend that the motion be denied.

Courts "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). "[T]his policy is to be applied with extreme liberality." Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990); see also Waldrip v. Hall, 548 F.3d 729, 732 (9th Cir. 2008). "However, liberality in granting leave to amend is subject to several limitations. Those limitations include undue prejudice to the opposing party, bad faith by the movant, futility, and undue delay." Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc., 637 F.3d 1047, 1058 (9th Cir. 2011) (citations and internal quotation marks omitted); see also Waldrip, 548 F.3d at 732.

The Court will recommend that the motion be denied for two reasons. First, this case is

1 stayed, and Plaintiff provides no explanation as to why he should be permitted to litigate this
2 issue while the case is stayed.¹

3 Second, the Court denied Plaintiff's first motion for leave to amend less than two weeks
4 ago. (ECF No. 53). While Plaintiff alleges that he cured the deficiencies noted by the Court
5 and that he discovered additional facts, Plaintiff does not explain what additional facts or
6 claims he is attempting to add. This is so even though the Court has twice informed Plaintiff
7 that a motion for leave to amend should explain "the changes he is attempting to make to his
8 original complaint." (ECF No. 31, p. 2; ECF No. 45, p. 14).

9 Plaintiff does allege that he divided his claims into separate sections and specified the
10 violation for each claim, which could cure some of the deficiencies the Court identified.²
11 However, as mentioned above, the Court also denied Plaintiff's motion for leave to amend
12 because Plaintiff failed to explain the changes he was attempting to make to his original
13 complaint (ECF No. 45, p. 14; ECF No. 53), and his current motion to amend suffers from that
14 same defect. Moreover, in denying Plaintiff's first motion for leave to amend, the Court
15 addressed Plaintiff's claim for conspiracy to retaliate on the merits, and found that Plaintiff
16 failed to state a claim. (ECF No. 45, pgs. 14-17; ECF No. 53). Plaintiff reasserts this claim,
17 but he provides no explanation as to how he cured the deficiencies identified by the Court.
18 Finally, Plaintiff once again fails to include all the claims that are currently proceeding in this
19 case in his proposed amended complaint, but there is no indication in Plaintiff's motion for
20 leave to amend that he wants to dismiss the claims he fails to include.

21 Accordingly, the Court will recommend that Plaintiff's motion be denied. As Plaintiff's
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23 ¹ On October 21, 2021, the Court issued findings and recommendations, recommending that this case be
24 stayed and that Plaintiff's first motion for leave to amend be denied. (ECF No. 45). These findings and
25 recommendations were adopted in full. (ECF No. 53). While Plaintiff received the findings and recommendations
before filing his second motion for leave to amend, as the order adopting the findings and recommendations was
issued on April 5, 2022 (*id.*), it appears that he had not yet received the order adopting.

26 It appears that Plaintiff filed his motion before he received the order staying this case and denying his
first motion for leave to amend, although he had already received the findings and recommendations the Court
issued recommending that the case be stayed and that his motion for leave to amend be denied.

27 ² While not deciding whether the proposed complaint still violates Rule 8(a), the Court notes that in
28 Claim III Plaintiff still groups multiple claims together, without specifying which facts support which claim.
Plaintiff states that Claim III is for "conspiracy to retaliate and impose cover up by malicious prosecution and
cruel and unusual punishment: denial of due process equal protections." (ECF No. 54, p. 11).

1 second motion for leave to amend suffers from many of the same defects as his prior motion,
2 the Court also warns Plaintiff that unreasonable and frivolous filings may result in sanctions.
3 See, e.g., Fed. R. Civ. P. 11.

4 Based on the foregoing, the Court HEREBY RECOMMENDS that Plaintiff's second
5 motion for leave to amend (ECF No. 55) be DENIED.

6 These findings and recommendations are submitted to the United States district judge
7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen
8 (14) days after being served with these findings and recommendations, any party may file
9 written objections with the court. Such a document should be captioned "Objections to
10 Magistrate Judge's Findings and Recommendations." Any response to the objections shall be
11 served and filed within fourteen (14) days after service of the objections. The parties are
12 advised that failure to file objections within the specified time may result in the waiver of rights
13 on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v.
14 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

15 IT IS SO ORDERED.

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17 Dated: April 13, 2022

18 /s/ Eric P. Groj
19 UNITED STATES MAGISTRATE JUDGE
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